



Montana Legislative History

Chapter: 296 Session L: 2001

Checklist of Bill History

Bill Number: 358 House / Senate

History and Final Status Sheet ☒

Introduced Bill ☒

Fiscal Note ☐

Third Reading Bill ☒

Final Version of Bill ☒

House

Committee:

Transportation

Hearing Date(s):

March 21, 2001

Committee Report:

Senate

Committee:

Highways & Transportation

Hearing Date(s):

Feb. 13, 2001

Committee Report:

Conference Committee

Hearing Date(s):

Conference Committee Report:

Compiler Notes

Compiled by: *28*

Date: 12-4-23

Notes:

Bill Draft Number: LC1503**Bill Type - Number:** SB 358**Short Title:** Public access to traffic accident reports to compile data**Primary Sponsor:** Bob DePratu (R) SD 40**Chapter Number:** 296**Bill Actions - Current Bill Progress:** Became Law**Bill Action Count:** 46

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	04/20/2001			
(S) Signed by Governor	04/20/2001			
(S) Transmitted to Governor	04/10/2001			
(H) Signed by Speaker	04/09/2001			
(S) Signed by President	04/06/2001			
(S) Returned from Enrolling	04/06/2001			
(C) Printed - New Version Available	04/05/2001			
(S) Sent to Enrolling	04/04/2001			
(H) Returned to Senate	04/04/2001			
(H) 3rd Reading Concurred	04/04/2001	98	2	
(H) 2nd Reading Concurred	04/03/2001	95	4	
(H) Scheduled for 2nd Reading	04/03/2001			
(H) Scheduled for 2nd Reading	04/02/2001			
(H) Committee Report--Bill Concurred	03/22/2001			(H) Transportation
(H) Committee Executive Action--Bill Concurred	03/22/2001	18	0	(H) Transportation
(H) Hearing	03/21/2001			(H) Transportation
(H) Referred to Committee	03/03/2001			(H) Transportation
(H) First Reading	03/03/2001			
(S) Transmitted to House	02/20/2001			
(S) 3rd Reading Passed	02/20/2001	50	0	
(S) Scheduled for 3rd Reading	02/20/2001			
(S) 2nd Reading Passed on Voice Vote	02/19/2001	50	0	
(S) Scheduled for 2nd Reading	02/19/2001			
(C) Printed - New Version Available	02/16/2001			
(S) Fiscal Note Printed	02/16/2001			
(S) Fiscal Note Signed	02/16/2001			
(S) Fiscal Note Received	02/16/2001			
(S) Committee Report--Bill Passed as Amended	02/15/2001			(S) Highways and Transportation
(S) Committee Executive Action--Bill Passed as Amended	02/15/2001	10	0	(S) Highways and Transportation
(S) Fiscal Note Requested	02/14/2001			

(S) Hearing	02/13/2001	(S) Highways and Transportation
(C) Introduced Bill Text Available Electronically	01/31/2001	
(S) Referred to Committee	01/31/2001	(S) Highways and Transportation
(S) First Reading	01/31/2001	
(S) Introduced	01/31/2001	
(C) Draft Delivered to Requester	01/30/2001	
(C) Draft Ready for Delivery	01/26/2001	
(C) Draft in Assembly/Executive Director Review	01/25/2001	
(C) Draft in Final Drafter Review	01/24/2001	
(C) Bill Draft Text Available Electronically	01/24/2001	
(C) Draft in Input/Proofing	01/24/2001	
(C) Draft to Drafter - Edit Review [JLN]	01/23/2001	
(C) Draft in Edit	01/23/2001	
(C) Draft in Legal Review	01/23/2001	
(C) Draft to Requester for Review	01/19/2001	
(C) Draft Request Received	01/08/2001	

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name Mi
Requester	Tramelli	Brett
Drafter	MacMaster	John
Primary Sponsor	DePratu	Bob

Subjects

Description	Revenue/Approp. Vote Majority Req.	Subject Code
Criminal Procedure (see also: Law Enforcement)	Simple	CRP
Privacy	Simple	PRIV
Traffic Regulations (see also: Motor Vehicles)	Simple	TRAF

Additional Bill Information

Fiscal Note Probable: No

Preintroduction Required: N

Session Law Ch. Number: 296

DEADLINE

Category: General Bills

Transmittal Date: 02/23/2001

Return (with 2nd house amendments) Date: 03/31/2001

Section Effective Dates

Section(s) **Effective Date** **Date Qualified**
All Sections 01-OCT-01

SENATE BILL NO. 358
INTRODUCED BY B. DEPRATU

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR GENERAL PUBLIC ACCESS TO MOTOR VEHICLE ACCIDENT REPORTS AND SUPPLEMENTAL INFORMATION FOR THE PURPOSE OF RESEARCH INTO THE HISTORY OF VEHICLES; PROHIBITING ACCESS TO INFORMATION IDENTIFYING ANY PERSON OR INSURER NAMED IN THE RECORDS; AND AMENDING SECTION 61-7-114, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-7-114, MCA, is amended to read:

"61-7-114. Accident reports confidential. (1) All required accident reports and supplemental reports must be without prejudice to the individual reporting and must be for the confidential use of the department or other governmental agencies for accident prevention, roadway design, motor carrier safety monitoring purposes, or for the administration of the laws of this state relating to the deposit of security and proof of financial responsibility by persons driving or the owners of motor vehicles. The department may disclose the identity of a person involved in an accident when the identity is not otherwise known or when the person denies being present at the accident.

(2) Except as provided in this section, all accident reports and supplemental information filed as required by this part are confidential and not open to general public inspection. ~~Copying~~ Except as provided in subsection (2)(e), copying of lists of reports is not permitted. The report and supplemental information filed by law enforcement personnel, as required by this part, may be examined and copied, without obtaining a court order, by:

- (a) a person named in the report or involved in the accident;
- (b) the representative of the person referred to in subsection (2)(a), designated in writing, or the insurance carrier of that person;
- (c) a party to a civil action arising from the accident; ~~or~~
- (d) the executor, the administrator, or the attorney representing the executor or administrator if the person is deceased; or
- (e) the general public, including commercial entities, for purposes of research into the history of vehicles, but the department may not disclose the name, address, or telephone number of, or other information allowing

the identification of, any reporting person, accident victim, peace officer, or other person or any insurer named in a report or supplemental information."

- END -

SENATE BILL NO. 358

INTRODUCED BY B. DEPRATU, WANZENRIED, TRAMELLI

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- (b) the representative of the person referred to in subsection (2)(a), designated in writing, or the insurance carrier of that person;
- (c) a party to a civil action arising from the accident; ~~or~~
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the identification of, any reporting person, accident victim, peace officer, or other person or any insurer named in a report or supplemental information, INCLUDING WITNESS STATEMENTS."

- END -



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the identification of, any reporting person, accident victim, peace officer, or other person or any insurer named in a report or supplemental information, including witness statements."

- END -

I hereby certify that the within bill,
SB 0358, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2019.

Speaker of the House

Signed this _____ day
of _____, 2019.

SENATE BILL NO. 358

INTRODUCED BY B. DEPRATU, WANZENRIED, TRAMELLI

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MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON HIGHWAYS AND TRANSPORTATION

Call to Order: By **CHAIRMAN ARNIE MOHL**, on February 13, 2001 at 3:00 P.M., in Room 317-A Capitol.

ROLL CALL

Members Present:

Sen. Arnie Mohl, Chairman (R)
Sen. Ric Holden, Vice Chairman (R)
Sen. Dale Berry (R)
Sen. Vicki Cocchiarella (D)
Sen. Bob DePratu (R)
Sen. Dan Harrington (D)
Sen. Sam Kitzenberg (R)
Sen. Jerry O'Neil (R)
Sen. Gerald Pease (D)
Sen. Glenn Roush (D)

Members Excused: None.

Members Absent: None.

Staff Present: Connie Erickson, Legislative Branch
Marion Mood, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 348, 1/29/2001; SB 358,
2/5/2001; SJ 11, 2/2/2001
Executive Action: SJ 11; SB 358; SB 348

HEARING ON SB 348

Sponsor: SEN. JIM ELLIOTT, SD 36, TROUT CREEK

Proponents: **Dr. Raymond Nelson, self**
 Mike Kadas, Mayor, City of Missoula
 Vern Jones, self
 Pat Keim, Burlington Northern & Santa Fe Railroad
 Russ Ritter, Montana Rail Link
 Craig Gilchrist, Engineer, BLE MT SLB
 Jani McCall, City of Billings
 Gray Shanks, Havre, self

Opponents: **John C Hoyt, self**
 Al Smith, Montana Trial Lawyers Association

Opening Statement by Sponsor:

SEN. JIM ELLIOTT, SD 36, TROUT CREEK, opened by saying that the purpose of SB 348 was three-fold: first, it dealt with noise pollution by allowing cities and towns to petition the United States Department of Transportation to establish quiet zones at railroad crossings. Second, it required train horns to be sounded only at public crossings which would change Montana law to conform to laws in surrounding states. He then handed out **EXHIBIT(his36a01)** and **EXHIBIT(his36a02)**, one being an advertisement and the other petitions from several county commissioners and townships. He pointed to the old law which said, on page 3, line 6 : "any highway, road or railroad crossing", and the proposed law which strikes "any" and inserts "public". Lastly, it cleans up some of the archaic language of the statute.

Proponents' Testimony:

Dr. Raymond Nelson, self, stated that the idea of this proposal began with the idea of tranquility but soon became one of safety. He told of his community nestled in the corridor between Thompson Falls and Plains, with the highway, the Clark Fork, and the railroad winding through the middle of it, and 2,000 foot cliffs on either side. About 18 months ago, he noticed a marked increase in train horns blowing around the clock. He did some inquiries and found out that Montana was out of sync with practices in surrounding states where trains do not sound horns or whistles at private crossings. Then-governor Racicot informed him of pending federal rules which came about as the result of legislation passed by Congress in 1994, due to accidents in Florida. This legislation directed the FRA to come up with measures that increased safety and achieved silence. It was discovered through an environmental impact statement that a few

simple changes to railroad crossings greatly outweigh the sound of the horns. He referred to a study done in Spokane, WA, and offered **EXHIBIT(his36a03)** which also describes some of these changes. He summarized their findings and said there were 14 times more crossing incidents with the horns sounding than with the median barrier in place and no horns. In closing, he referred to additional statistics found in the study.

Mike Kadas, Mayor, City of Missoula, told of two railroad crossings in his community where people had requested to find a solution so the train whistles did not have to be sounded, and said this bill gave them that opportunity. He mentioned the installation of median barriers as a way to address the safety issue.

Vern Jones, self, stated that, before retiring, he worked for the rail-highway safety program and thus had some knowledge of the issues at hand. He offered written testimony **EXHIBIT(his36a04)**. He went on to say that the Federal Railroad Authority postponed working on these regulations until May, and some states had expressed interest in getting this under their control. He stated that because of this, he was concerned with Montana passing this bill before anyone knew what the FRA would do since SB 348 said it would follow the FRA regulations. He offered one more reason for the quiet zones, that being the block signal system. When a train enters a certain block, the signal is activated. This works for an Amtrak train traveling at 79 mph; when a train travels at half that speed, the signal is activated when it enters that block and stays on for twice as long as it should be until the train gets there, prompting people to drive around the barriers.

Pat Keim, Burlington Northern & Santa Fe Railroad, offered **EXHIBIT(his36a05)**, his written testimony, and **EXHIBIT(his36a06)**, a fact sheet.

{Tape : 1; Side : B; Approx. Time Counter : 0}

Russ Ritter, Montana Rail Link, rose in support of SB 348 for the same reasons and added that if he could, he would close all private railroad crossings because of the safety issues involved. He went on to say how impressed he was with the obvious concern for safety that railroad employees exhibited, when, a number of years ago, he was a newcomer to the railroad company. He recounted witnessing a vehicle accident at a railroad crossing and said this was not only traumatic to the victims' families but also to the engineer and the brakeman. In closing, he stressed that his company did everything possible to make their employees conscious of safety and repeated he fully supported SB 348, with the conditions outlined by **Mr. Keim**.

Craig Gilchrist, Chairman, State Legislative Board of the Brotherhood of Local Engineers, said that SB 348 provides the public with the necessary measures of safety to interact with on track railroad equipment.

Jani McCall, City of Billings, also rose in support of SB 348 and commended the sponsor for bringing this bill forward, saying all the components are covered in this bill to make sure everyone is protected, and safety is increased.

Gary Shanks, Havre, self, talked about a private railroad crossing adjacent to his property where the sound of the whistles had become intolerable to the point where he saw moving as his only way to escape it. He complained that he could not entertain outside, like having a backyard barbecue, and his grandchildren run into the house whenever they hear the train approaching, and said he was wholeheartedly in favor of SB 348.

Opponents' Testimony:

John Hoyt, Lawyer, self, said his law practice has been principally investigating accidents at railroad crossings for the last 25 years. He stated he could not support the second part of the proposed bill which permits trains to go through private crossings without sounding their horns. He cited statistics from Florida that show accidents increased threefold during the period in which the state's whistle ban was in effect. Another study in Oregon showed virtually the same results. In his opinion, this puts the onus on the driver; he has to be aware of the oncoming train and estimate when it will arrive at the crossing. He explained that this is not always possible, pointing to road curvatures, banks, weather and lighting conditions, or even railcars parked on the tracks. He stated that the FRA's conclusion was that the ban of whistles at crossings entailed a much higher safety risk because it gave a driver no indication of an approaching train. He related an incident where a man was killed when his car was hit by a train at a private crossing near his home. He could not see the oncoming train due to railcars parked on a siding, about 200 feet down from the crossing. He maintained that had the horn been sounded properly, this man would have lived.

{Tape : 2; Side : A; Approx. Time Counter : 0}

He stated that the BNSF had instructed their engineers about a year ago to sound their horns at private crossings but had not erected whistle boards to tell them where to sound the horns. He was concerned with the large number of private crossings with heavy vehicle traffic, such as access to logging operations, recreational sites, grain elevators and so on. He said sometimes it was hard to tell a private crossing from a public

one, and the issue was not tranquility but life or death. To illustrate his point, he handed out **EXHIBIT (his36a07)**. He repeated that the premise of this bill was unsafe, and urged the committee not to pass it.

Al Smith, Montana Trial Lawyers' Association, said that when the FRA looks at the safety of quiet zones, they do not include private crossings because there are no requirement for alternative warnings with regards to private crossings. This means that there is nothing the FRA will do to make sure those private crossings remain safe, and that is the reason for section (4) SB 348. He wondered whether a homeowner would be liable if a delivery van was hit at his private crossing, or who would be liable in the event of a derailment at the private crossing. He addressed the four conditions **Mr. Keim** talked about, and said there is no FRA approval for private crossings; there is no requirement for equipped private crossings; there is nothing that will spur on law enforcement; and the fourth condition was that of immunity which is a provision of the bill. He summarized that three out of four factors were missing and urged to either table the bill or eliminate the private crossing section.

Questions from Committee Members and Responses:

VICE CHAIRMAN RIC HOLDEN referred to the noise complaints and asked what had triggered the increased sounding of the horns. **Mr. Gilchrist** stated that as employees of the railroad companies, they were instructed to sound the horns at all crossings. **VICE CHAIRMAN HOLDEN** wondered about the rationale behind that, and **Mr. Gilchrist** answered he did not know. **VICE CHAIRMAN HOLDEN** then asked if he questioned the validity of the instructions. **Mr. Gilchrist** said they asked why and were told it was the law. The Federal Railroad Administration mandates that operating crews be tested for efficiency in the rules for actual in-field scenarios, and that includes the proper sounding of the horns. **VICE CHAIRMAN HOLDEN** then asked **Mr. Keim** what increased the frequency of the horn usage since it had always been in the statutes. **Mr. Keim** assumed he was referring to the horns sounded at private crossings because the whistles had always been blown at public crossings, and over the years the rules had evolved to whistle until the train was through the crossing. It also became the understanding that the law applied to private crossings, even though a recent district court ruling said Montana statute referred to public crossings only. He said this ruling is still under appeal, and, faced with this uncertainty, the railroads decided to start sounding the whistles at all crossings which accounted for the increase. **VICE CHAIRMAN HOLDEN** stated the increase then was really caused by the number of lawsuits the

railroad was involved in. **Mr. Keim** confirmed that it was a lawsuit which brought up this issue.

Closing by Sponsor:

SEN. ELLIOTT closed by saying many of his constituents had requested this bill. He acknowledged that to a degree, this was a question of public inconvenience versus public safety.

HEARING ON SB 358

Sponsor: **SEN. ROBERT DEPRATU, SD 40, WHITEFISH**

Proponents: **Tom Harrison, R. L. Polk Co.**

Opponents: **None**

Opening Statement by Sponsor:

SEN. ROBERT DEPRATU, SD 40, opened by saying that the purpose of SB 358 was to give the public the opportunity to have access to records regarding vehicles that have been in accidents. In short, it enables people to find out the history of a vehicle before they purchase it. There is a privacy clause within the bill which prevents the department from disclosing the name, telephone number, address, or any other information of the involved parties.

Proponents' Testimony:

Tom Harrison, R. L. Polk Co., explained that his company gathers information data relative to the automobile industry, and works mainly on-line under the name of Carfax. Through this service, and for a fee, auto dealers as well as the public can determine whether the vehicle they plan on purchasing has a salvaged title, whether there is odometer fraud or a washed title. The latter refers to manufactured buy back programs of "lemons", cars with flood, fire, or accident damage that is being concealed. The Polk Company compiles this data on every car and every VIN number in this country. He stated that this bill would assure them access to this information in Montana, and its safeguards preserved the confidentiality of the people involved. He pointed out that the Motor Vehicle Department used to sell this information which is now determined to be confidential, giving peripheral industries the opportunity to besiege the car buyer with offers to buy accessories for the new car. He

repeated that SB 358 was a consumer protection bill which would help auto dealers and reduce lawsuits.

Questions from Committee Members and Responses:

{Tape : 2; Side : B; Approx. Time Counter : 0}

SEN. JERRY O'NEIL asked if there would be a fiscal impact with setting up the computers to make this information available. **Mr. Harrison** said he was not sure. He repeated that his company gets this information, compiles and re-sells it, but that a lot of others benefit from it, such as other companies as well as auto dealers. He suggested it might provide jobs to two part-time employees at the most. **SEN. O'NEIL** then asked about the cost for this service, and **Mr. Harrison** replied it was \$29.95 to his knowledge. **SEN. O'NEIL** asked whether other states based their fees on a per inquiry basis, and whether this bill allowed Montana to charge a fee. **SEN. ROBERT DEPRATU** answered he did not believe that it either allowed for it nor disallowed it. **SEN. O'NEIL** inquired whether this information was readily available or would computers have to be re-programmed. **SEN. DEPRATU** replied that it was readily available. **SEN. DAN HARRINGTON** stated that sometimes, insurance companies will total a car, have it repaired and the re-sell it, and he wondered if **Mr. Harrison** was talking about that type of practice. **Mr. Harrison** affirmed this, and **SEN. HARRINGTON** wondered if there was any way those cars could be designated. **Mr. Harrison** said that they are designated when they are totaled and get a salvage title. The problem is, though, that this is not conveyed to the consumer buying that vehicle until after the fact because a person selling a damaged car knowingly will deliver the title after the transaction. With Carfax, the buyer is able to look up the vehicle in question, and he will know its history. **SEN. HARRINGTON** then asked if this applied to cars that are "lemons". **Mr. Harrison** replied that it did. He then added that trade-in dates as well as the odometer reading on the date of exchange are recorded in this data. **CHAIRMAN ARNIE MOHL** asked if the sponsor could get the fiscal note drafted before the floor session, and **SEN. DEPRATU** assured him he would even though he did not think it would show any significant amount of money. **CHAIRMAN MOHL** inquired who paid insurance companies for keeping these records. **SEN. DEPRATU** answered that nobody paid the insurance companies. This information is passed on to the data base at Deer Lodge as title exchanges take place. He reiterated that when a vehicle is totaled and the insurance company buys it, they have to declare that fact when they sell it, and a salvage or marked title is issued. **CHAIRMAN MOHL** then asked if this would create additional staffing for the Motor Vehicle Division. **SEN. DEPRATU** felt it would not since all this data is put into the computer base as titles are exchanged.

Closing by Sponsor:

SEN. DEPRATU closed on SB 358.

HEARING ON SJ 11

Sponsor: SEN. JON TESTER, SD 45, BIG SANDY

Proponents: Barry "Spook" Stang, Montana Motor Carriers' Assn.
Dave Galt, Montana Department of Transportation
Curtis Kuehn, Timberweld Manufacturing
Lorna Karn, Montana Farm Bureau

Opponents: None

Opening Statement by Sponsor:

SEN. JON TESTER, SD 45, opened by saying that SJ 11 addresses the section in the new rules set by the Federal Motor Carriers Safety Administration which proposes elimination of the exemptions for the logging and agricultural industries. It will provide the needed flexibility and promote safety on the highways. Within the resolution, it says that the Montana Legislature opposes the new rules regarding the hours of service regulations, and asks that a new proposal be issued based on sound science, that it enhances public safety, and strengthens the ability of the trucking industry to meet the needs of the American economy.

Proponents' Testimony:

Barry "Spook" Stang, Montana Motor Carriers' Association, offered written testimony **EXHIBIT**(his36a08) and **EXHIBIT**(his36a09) and stated he was also speaking for Ronna Christman, Montana Petroleum Marketers Assn., who had signed in but was unavailable at this point.

Dave Galt, Montana Department of Transportation, agreed that there were serious shortcomings in the administration's new rules, and he referred to Frank Murphy, Motor Carrier Services Division, who was very familiar with these rules and would be available to answer any questions. He concurred that a clear message should be sent to Congress that these proposed new rules, which the new administration had put on hold, were flawed.

Curtis Kuehn, Traffic Transportation Manager, Timberweld

Manufacturing, said his company is a small plant in Columbus which has manufactured laminated wood beams for 44 years and ships its product all over the U.S. He stated that the proposed hours of service regulation failed to consider the economic impact it would have on many small businesses. It threatened the future of his company and the livelihood of its employees by taking away its ability to compete in the marketplace. It will cut the driver's hours per work week, and put more trucks on the road to make up the lost delivery hours.

Lorna Karn, Montana Farm Bureau Federation, stated that her organization had previously been exempted but now was facing the same regulations, and she wondered whether this would also affect farmers who were hauling their own livestock. She feared it was going to cause a lot of hardship for the farmers and ranchers, and urged support for the resolution.

Questions from Committee Members and Responses:

SEN. VICKI COCCHIARELLA asked what a "circadian cycle" was. **Mr. Stang** replied it had to do with sleep habits. **VICE CHAIRMAN HOLDEN** wanted to know what the practical application of the rules was as they applied to agriculture. **Frank Murphy** explained that there were two different types of operations relating to the farming community: one dealt with intra-state operations which are unregulated as far as the hours of service are concerned; the other one applies to interstate operations, and they fall under the same regulations as the commercial trucking industry. **VICE CHAIRMAN HOLDEN** inquired how this would affect his own ranching operation if they, for instance, had to transport a truckload of lambs to another state. **Mr. Murphy** replied that this would fall under the commercial haulers' rules of 10 hours of driving followed by an eight-hour layover, provided the vehicle had a gross weight rating of more than 10,000 pounds. **VICE CHAIRMAN HOLDEN** wanted confirmation that the driver had to stop after 10 hours, and **Mr. Murphy** affirmed that. **VICE CHAIRMAN HOLDEN** pointed out that this would not work because the lambs would not survive such long hours in a truck and asked who approved those rules. **Mr. Murphy answered** that it had always been a federal regulation with regards to commerce between states. He explained that this was the reason why a lot of companies had adopted the two-driver system, so they could continue on with their load. **VICE CHAIRMAN HOLDEN** asked the same questions of **Mr. Stang** who pointed to the fact sheet in Exhibit (8) and explained that under current rules, one could work for 15 hours in which to load and/or unload a truck but drive no more than ten. Under the proposed rules, one can only work 12 hours a day which has to include the loading and unloading of goods. He also pointed to

the proposed mandatory 48-hour layover at the end of the work week. **CHAIRMAN ARNIE MOHL** wondered how this compared to other states, and **Mr. Stang** replied that the rules are federal rules and apply to every state. The only exception was that Montana gave intra-state haulers a break, but he feared we could lose that under the proposed new rules.

{Tape : 3; Side : A; Approx. Time Counter : 0}

Closing by Sponsor:

SEN. TESTER closed on SJ 11 and reiterated that currently, if someone was hauling within a 100-mile radius, he would not have to fill out a log book or worry how long it took to load the truck or how long he had been on the road, but with the new rules, he would lose these exemptions. He quoted **Mr. Galt** by saying these proposed new rules went past what good government is supposed to do, and urged support for SJ 11.

EXECUTIVE ACTION ON SJ 11

Motion/Vote: **SEN. DEPRATU** moved that **SJ 11 BE ADOPTED**. Motion carried 10-0.

EXECUTIVE ACTION ON SB 358

SEN. DEPRATU called for a vote on SB 358.

Discussion:

VICE CHAIRMAN HOLDEN stated he would like to include an amendment to the bill, and referred to line 21 "...the report and supplemental information ... filed by law enforcement personnel" where he would insert "including witness statements" after "supplemental information". He felt that a lot of times, that information was not included in the police report. **SEN. DEPRATU** asked whether he wanted the names of the witnesses released or just the statement, and **VICE CHAIRMAN HOLDEN** replied just the statement; the names were covered in Section(e) and their privacy guaranteed. **SEN. COCCHIARELLA** wondered whether this should also be inserted on page 2, line 3. **Connie Erickson** answered that it could be inserted for additional clarification. **VICE CHAIRMAN HOLDEN** was agreeable to the suggestion. **SEN. DAN HARRINGTON** wondered if a witness statement would not automatically be part

of the "supplemental information". **VICE CHAIRMAN HOLDEN** said one would think so, but more often than not, these would not be included. **SEN. DEPRATU** accepted the proposed amendment to his bill, saying it did offer clarification.

Motion/Vote: **SEN. HOLDEN** moved that **AMENDMENT TO SB 358 BE ADOPTED**. **Motion carried 10-0**.

SEN. GLENN ROUSH wondered if all these requests would entail additional cost to the department, and said he would like to see a fiscal note for this bill. **VICE CHAIRMAN HOLDEN** explained that the department already had all this information. When an insurance company settles a claim on a totaled car, they send a flyer to the department stating that fact, and that note gets entered into the computer and attaches to the title. That title then is restricted, alerting the prospective buyer to that fact. **SEN. DEPRATU** wanted to address the consumer protection issue in the bill and added that oftentimes it is a late model car, still under warranty, that is totaled. A restricted title automatically voids the warranty, so it really is in the consumer's best interest to be able to get information on the history of the car. **CHAIRMAN MOHL** also requested a fiscal note, and the sponsor said he would oblige but repeated he did not think there would be any fiscal impact. **SEN. O'NEIL** stated that he had, in the past, requested information from the department, and he seemed to remember that he was charged for this service. In view of this, he wondered if it would not be a positive fiscal note.

Motion/Vote: **SEN. MOHL** moved that **SB 358 DO PASS AS AMENDED**. **Motion carried 10-0**.

Amendment #SB035801.ace **EXHIBIT**(his36a10) was handed in 2/16, due to the computer problems.

EXECUTIVE ACTION ON SB 348

Motion: **SEN. DEPRATU** moved that **SB 348 DO PASS**.

Discussion:

SEN. DEPRATU felt we should bring our statutes in line with those of other states. **SEN. O'NEIL** liked the bill for advocating local control. **VICE CHAIRMAN HOLDEN** took issue with the immunity clause in the bill, saying this let the railroads off the hook in case of an accident. The way it is now, the blowing of the horn can become a critical part of the accident if there is a lawsuit. He mentioned a rancher friend who lived near railroad tracks, with his house on one side and the barn on the other, and this friend told him he would rather put up with the noise of the

horns, reminding him of the crossing, than become lackadaisical due to the frequency with which he crossed the tracks. **SEN. O'NEIL** wondered if this bill would exempt private crossings whether the locality requested that or not, and suggested an amendment to enable localities to have their say. **SEN. ROUSH** said he shared the same concern with **VICE CHAIRMAN HOLDEN** regarding the immunity clause. He said that oftentimes, a second track will have railcars on it and can blind-side a driver, and he maintained the whistles served a purpose in warning the drivers. **SEN. DALE BERRY** voiced the same concerns. **Substitute Motion:** **SEN. O'NEIL** made a substitute motion that **AMENDMENT TO SB 348 BE ADOPTED.**

Discussion:

Connie Erickson stated that there were two parts to the bill: one allows local government to establish a quiet zone, and the other says the trains do not have to blow the horn at private crossings. **SEN. O'NEIL** then said the amendment should say that the localities need to petition the federal government before the private crossings are exempted. **Connie Erickson** asked that voting on the bill be delayed until she had a chance to research and draft the amendment. **VICE CHAIRMAN O'NEIL** said the committee should first see if the amendment would be adopted. **SEN. HARRINGTON** inquired how the engineers would know if a crossing is a private crossing, and where he needed to blow the horn. **SEN. DEPRATU** felt that individuals have an obligation to be aware of their surroundings. He further stated that people who build or buy houses near railroad tracks know what they are facing. **Vote:** Substitute motion that **AMENDMENT TO SB 348 BE ADOPTED failed 1-9 with O'Neil voting aye.** **SEN. GERALD PEASE** stated he could not support this bill and indicated he would like to table it. **Substitute Motion/Vote:** **SEN. PEASE** made a substitute motion that **SB 348 BE TABLED. Substitute motion passed 8-2 with Cocchiarella and DePratu voting aye.**

ADJOURNMENT

Adjournment: 5:30 P.M.

SEN. ARNIE MOHL, Chairman

MARION MOOD, Secretary

AM/MM

EXHIBIT (his36aad)

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON TRANSPORTATION

Call to Order: By **CHAIRMAN ROGER SOMERVILLE**, on March 21, 2001
at 3:00 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Roger Somerville, Chairman (R)
Rep. Sylvia Bookout-Reinicke, Vice Chairman (R)
Rep. Darrel Adams (R)
Rep. Joe Balyeat (R)
Rep. Debby Barrett (R)
Rep. Ronald Devlin (R)
Rep. Dave Gallik (D)
Rep. Steven Gallus (D)
Rep. George Golie (D)
Rep. Donald L. Hedges (R)
Rep. Jim Keane (D)
Rep. Gary Matthews (D)
Rep. William Price (R)
Rep. Allen Rome (R)
Rep. Frank Smith (D)
Rep. Donald Steinbeisser (R)
Rep. Karl Waitschies (R)

Members Excused: Rep. Carol C. Juneau, Vice Chairman (D)

Members Absent: None.

Staff Present: Donna Huffman, Committee Secretary
Leanne Kurtz, Legislative Branch

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 358, SB 393, SB 191
03/21/01.
Executive Action: SB 358.

HEARING ON SB 358

Sponsor: Senator Bob DePratu, SD 40.

Proponents: Larry Majerus, Vice President of R.L. Polk and Company; Tom Harrison, Lawyer in Helena and Lobbyist for R.L. Polk and Company.

Opponents: none.

Informational Witnesses: none.

Opening Statement by Sponsor:

Senator DePratu said this bill helps to clarify getting access to information on vehicles that have been wrecked. He said this clarifies that entities and individuals have the right to get information on the records of vehicles. After a vehicle is re-sold, there will be a title re-issue, and it will indicate that it is a salvage vehicle or has been re-built. This will help the public get access to those records to determine the history of the vehicle and protect the identity of the owner when the vehicle was first wrecked.

Proponents' Testimony:

Larry Majerus said their company does statistical market analysis, automotive market research and serves all major manufacturers in emissions and safety recalls. One of their products that serves consumers and dealers is the Car Facts Dealers History Report, this report has information containing salvage notations, odometer readings, also shows damage, such as fire or flood, and where to get the accident information in reference. In Montana this information is unavailable because it is restricted, this report does not contain any personal information. They are in support of SB 358.

Tom Harrison said he agreed with Mr. Majerus and supports SB 358.

Opponents' Testimony: none.

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 9.3}

Rep. Hedges asked **Mr. Majerus** if this information serve on a manufacturers recall list, after it has been disassembled. **Mr. Majerus** said the manufacturer is responsible for fixing any

defect in a car, if it is the original part, they still have to be responsible in fixing that car.

Rep. Hedges asked **Mr. Majerus** if there has been a re-issued title, how would a person find the car. **Mr. Majerus** said they collect all information from all registrations and title transfers. They maintain a database of about 300 million vehicles, from that database, they select all the re-call notices from the files so the information is up to date nationwide.

Rep. Devlin asked **Senator DePratu** if an auto dealer or a private individual could call in a Vehicle Identification Number (VIN), and get this information in the State of Montana. **Senator DePratu** said this bill would give them the authorization to release that information to you.

Rep. Devlin asked **Senator DePratu** what happens if a vehicle was wrecked in a different state. **Senator DePratu** said that information can be available through the internet and through other services. This brings Montana up to date, where other states are.

Senator DePratu said, with some of the manufacturers, once a vehicle has been totaled it voids all warranties and can have some effect on re-calls. If an insurance company has totaled a vehicle, then the manufacturer does not feel responsible for something that might become a defect after it has been damaged that badly. This is one more reason that it is important that this information be available.

Rep. Gallus asked **Senator DePratu** if there are 3 total loss vehicles, all same year, model and make, and a salvage person used parts from all three vehicles to make one vehicle, what VIN number would be on that vehicle. **Senator DePratu** said the portion of the vehicle with the door plate on it, remains with the title of the vehicle.

Closing by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 16.9}

Senator Depratu said this bill would provide information to the public and would be readily available to them. He urged a Do Concur.

License Plate Informational Testimony:

Charles Tomich from 3M Company showed informational slides on the new License Plate System. He handed out a folder containing

information on 3M's Digital License Plate Process.

EXHIBIT(trh64a01).

{Tape : 1; Side : A; Approx. Time Counter : 28.7}

HEARING ON SB 393

Sponsor: Senator Fred Thomas, SD 31.

Proponents: Clint Blackwood, Lewis & Clark Bicentennial Commission; Brenda Nordlund, Department of Justice; Sharon McCabe, Montana Historical Society; Amy Sullivan, Montana Tourism Coalition; Stuart Daggitt, Montana Inn Keepers.

Opponents: none.

Informational Witnesses: Dean Roberts, Administrator of Motor Vehicle Division of Department of Justice.

Opening Statement by Sponsor:

Senator Thomas said this bill would establish new license plates for Montana, the Lewis and Clark license plate. The money generated from the Bicentennial plates will go to the Historical Society, and benefits to different projects to take care of Montana visitors and prepare Montana for the visitors to the Lewis and Clark Bicentennial. He said amendments on this bill would co-ordinate with SB 191.

Proponents' Testimony:

Clint Blackwood handed out a map of the Lewis & Clark Trails System. **EXHIBIT**(trh64a02). The Lewis & Clark Bicentennial will start on January 18, 2003, and will conclude in St. Louis in mid-September of 2006. It is the wish of the State Bicentennial Commission that this be a community-driven observance. They have created a system of 14 regional Bicentennial Commissions around the state, set up on a county or multi-county level. Revenues from a Bicentennial License Plate would go to the state commission and be distributed to non-profit groups interested in developing Lewis & Clark projects.

Brenda Nordlund said this bill, in combination with SB 191, is a possibility in the way plates are issued in Montana. She spoke about amendments from Mr. Blackwood. This bill has an immediate effective date and would only apply to plates that are issued after January 1, 2002.

Sharon McCabe said the Montana Historical Society supports SB 393, this bill offers a practical way to advertise the Bicentennial and gain needed revenue for it. **EXHIBIT (trh64a03)**.

{Tape : 1; Side : B; Approx. Time Counter : 10.8}

Amy Sullivan said the Montana Tourism Coalition supports SB 393.

Stuart Doggitt said they support SB 393, at the present time, the accommodations tax is funding the Lewis & Clark Bicentennial Commission and will continue to provide funding for that working program. They have done a great job. This bill would provide the funding needed to make grants for other programs across the state and to diversify for a good experience for visitors.

Opponents' Testimony: none.

Questions from Committee Members and Responses: none.

Closing by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 18.1}

Senator Thomas said he recommends this legislation Do Concur and asked Leanne Kurtz to co-ordinate the details.

HEARING ON SB 191

Sponsor: Senator DePratu, SD 40.

Proponents: Rep. Cindy Younkin, HD 28; Ben Meyer, Montana 4-H; Brenda Nordlund, Department of Justice; Sarah May, Montana 4-H; Grace Morgan, Gallatin County Open Lands Board; Sara Lipscomb, Montana Children's Trust Fund; Terry Launer, Gallatin County Open Lands Board; Jan Metzmaker, Executive Director of Glacier Fund.

Opponents: none.

Informational Witnesses: Dean Roberts, Administrator of Motor Vehicle Division; Ross Swanson, Administrator of Montana Correctional Enterprises, Department of Corrections.

Opening Statement by Sponsor:

Senator DePratu said SB 191 and SB 393 need to work together to achieve the final result. He said there have been specialty license plates since 1987. This is set up so a non-profit organization, which meets the guidelines of the bill, can have

authorized a certain specialty plate. There are about one hundred different organizations right now that have specialty plates. With the new machine and new system, this will be cost effective and would produce plates in a much more time effective manner.

{Tape : 1; Side : B; Approx. Time Counter : 25}

Proponents' Testimony:

Rep. Younkin said she supports SB 191.

Ben Meyer said the Montana 4-H has a positive impact for youth in Montana. The additional revenue generated from this bill would be also for Montana 4-H Foundation and Trust and would help generations of Montana youth for years. The Montana 4-H supports SB 191.

Brenda Nordlund said this bill gives the opportunity to both government agencies and non-profit organizations to sponsor plates.

{Tape : 2; Side : A; Approx. Time Counter : 6.3}

Sarah May said many other youth programs in Montana and the Montana 4-H would greatly benefit with the passage of this bill. The Montana 4-H supports SB 191.

Grace Morgan said they support SB 191.

Sara Lipscomb said the Montana Children's Trust Fund supports SB 191. She spoke on the history of license plates in Montana. This Trust Fund was established by the Legislature in 1985 with the goal of reducing child abuse and neglect. They fund a variety of parent education support, designed to provide voluntary support and resource services to vulnerable families. This would be an effective and voluntary method of generating private dollars to support public goals.

{Tape : 2; Side : A; Approx. Time Counter : 12.7}

Terry Launer said they support SB 191.

Jan Metzmaker said the Glacier Fund is a committee of the National Park Foundation, a congressionally designated non-profit fund raiser for the National Park Service. Glacier National Park is a major attraction for individuals visiting Montana. The Glacier Fund is attempting to address this backlog of needs through a variety of fund-raising projects. By offering an

attractive, colorful license plate depicting Glacier National Park's scenic beauty, they hope to generate funds for the park projects. **EXHIBIT (trh64a04)**.

Opponents' Testimony: none.

Informational Witnesses' Testimony:

Dean Roberts spoke about the Fiscal Note on the bill. He said it's important these two bills be coordinated to be able to purchase the new equipment to do the kinds of covers talked about in the bill.

Ross Swanson said he is here for questions from the committee.

Questions from Committee Members and Responses:

Rep. Bookout-Reinicke asked **Mr. Roberts** if the left over material could be sold to salvage. **Mr. Roberts** said eventually over time it will get used up.

Dean Roberts explained more about the equipment system.

{Tape : 2; Side : B; Approx. Time Counter : 1}

Rep. Balyeat asked **Ms. Nordlund**, in the bill, who would decide what is political and religious. **Ms. Nordlund** said that would be part of the rule making process, it would be part of the Department of Justice's responsibility. There would be parameters to work within.

Rep. Gallus asked **Mr. Roberts** if there are any safety concerns with the life span of the reflectiveness of the plates. **Mr. Roberts** said presently the collegiate plates have been out for approximately 8 years, they are made out of the same kinds of materials.

Rep. Gallus asked **Mr. Roberts** if he has done a long term cost-benefit of leasing or buying new equipment. **Mr. Roberts** said they have not done a long term cost savings, but presently the Motor Vehicle Division picks up plates from the prison, then takes the plates and make sure they are labeled and boxed. This system gives the ability to produce those labels at the prison site instead of transporting them. This is one way it will be cost saving.

Rep. Waitschies asked **Mr. Roberts** if this system is only for light vehicles. **Mr. Roberts** said they can do any kind of plate on this system, including motorcycle plates.

Rep. Barrett asked **Ms. Nordlund** if any other state opened up their vanity plates to all takers. **Ms. Nordlund** said there are hundreds of different plates sponsored in different states.

Rep. Barrett asked **Ms. Nordlund** if there has been any lawsuits over any plates that are currently in Montana. **Ms. Nordlund** said the most they have had is a complaining letter or a telephone call about a denial on a personalized plate.

Rep. Devlin asked **Mr. Roberts** how long the waiting period is after submitting an application for a new plate. **Mr. Roberts** said it is about 2-3 months for a personalized license plate right now. Under this new system it would be a lot less time, probably 10-15 days.

Chairman Somerville asked **Mr. Roberts** what the size of the letters of Montana written on the plate is. **Mr. Roberts** said the only thing specified in law right now is, the plate has to have an outline of Montana on the general issue and vanity plates. On the special plate the outline would no longer be needed.

Closing by Sponsor:

{Tape : 2; Side : B; Approx. Time Counter : 26.2}

Senator DePratu said personalized plates and plates that would be done for an organization are two separate things. This is a revenue generator through volunteers. The people who buy these plates buy them voluntarily, they are not required to. They buy these out of pride in the organization they are involved with. He said it is extremely important that the two bills be together, and fund the new machine. It will simplify issuing the license plates down the road.

EXECUTIVE ACTION ON SB 358

Motion/Vote: **REP. BOOKOUT-REINICKE** moved that **SB 358 BE CONCURRED IN. Motion carried 18-0.**

Rep. Keane will carry to House.

ADJOURNMENT

Adjournment: 5:30 P.M.

REP. ROGER SOMERVILLE, Chairman

DONNA HUFFMAN, Secretary

RS/DH

EXHIBIT (trh64aad)